

SP0600-00-R-0055

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER SP0600-00-0304 & 0305		Page 1 of 28	
2. CONTRACT NUMBER SP0600-00-D-1013		3. AWARD/EFFECTIVE DATE See Block 31C		4. ORDER NUMBER		5. SOLICITATION NUMBER SP0600-00-R-0055	
6. SOLICITATION ISSUE DATE 26 April 2000		7. FOR SOLICITATION INFORMATION CALL: a. NAME Sharon Davis or Tyler Parker		b. TELEPHONE NUMBER (no collect calls) (703) 767-9527 (703) 767-9530		8. OFFER DUE DATE/LOCAL TIME 30 MAY 2000 AT 3:00 PM FT. BELVOIR, VA	
9. ISSUED BY Defense Energy Support Center 8725 John J. Kingman Road, Suite 4950 Fort Belvoir, VA 22060-6222 Buyer/Symbol: Sharon Davis / Tyler Parker Phone: (703) 767-9527 / 9530				10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV BUSINESS <input type="checkbox"/> (A) SIC: 5172 SIZE STANDARD: 500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE 13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFP <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO SEE SCHEDULE NATO				16. ADMINISTERED BY NO PAS			
17a. CONTRACTOR/OFFEROR BIDDER CODE M 598 FACILITY CAGE CODE KA714 MAPWORTH TRANSPORT (& TRADING) LTD MAPWORTH HOUSE 60, HIGH ROAD - ILFORD - ESSEX IG1 1DL - U.K. TELEPHONE NO. (44)208 514 5000 FAX NO: (44) 208 514 8860				18a. PAYMENT WILL BE MADE BY SEE CLAUSE F30.01 8860			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. PERMIT INVOICE TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES The Schedule is shown on the SF 1449 Continuation Sheet		21. QUANTITY		22. UNIT	
						23. UNIT PRICE	
						24. AMOUNT	
						EST DM 337,525	
25. ACCOUNTING AND APPROPRIATION DATA 97XXXX4930.5CFO 01 26.1 S33150						26. TOTAL AWARD AMOUNT (For Govt. Use Only) EST: \$164,799.08	
27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-3, FAR 52.212-4 AND 52.212-5. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. SCHEDULE OF SUPPLIES AND SOLICITATION CLAUSES ARE ATTACHED.							
27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 2 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: REFERENCE OFFER DATED YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS. SEE FOLLOWING PAGES			
30a. SIGNATURE OF OFFEROR/CONTRACTOR PP. MAPWORTH				31a. UNITED STATES OF AMERICA (Signature of Contracting Officer)			
30b. NAME AND TITLE OF CONTRACTING OFFICER (Type or Print) M. C. J. de C. ROSSE (M. DIRECTOR)				31b. NAME OF CONTRACTING OFFICER (Type or Print) MARK O. JONES			
30c. DATE SIGNED 25.05.2000				31c. DATE SIGNED 27 September 2000			
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED				33. SHIP NUMBER		34. VOUCHER NUMBER	
				<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		35. AMOUNT VERIFIED CORRECT FOR	
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE				32c. DATE		37. CHECK NUMBER	
						38. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				38. S/R ACCOUNT NO.		38. S/R VOUCHER NO.	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER				42a. RECEIVED BY (Print)		40. PAID BY	
				42b. RECEIVED AT (Location)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

AUTHORIZED FOR LOCAL REPRODUCTION

STANDARD FORM 1449
Prescribed by GSAR (48 CFR) 53.212

USP - 2

M. C. J. de C. ROSSE LTD

INDEXCONTINUATION OF STANDARD FORM 1449

CONTINUATION OF BLOCKS 19-24; THE SCHEDULE

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE</u>
B1.05	SUPPLIES TO BE FURNISHED (OVERSEAS PC&S/ALASKA) (DESC MAY 1996)	3

REQUIRED REGULATORY COMMERCIAL ITEM PROVISIONS AND CLAUSESPOSTAWARD

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE</u>
II.03-3.100	CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (PC&S) (DESC MAR 2000)	6
II.04	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS (FEB 2000)	8
II.05	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 1999)	10

ADDENDUM #2**OTHER REGULATORY AND LOCAL CLAUSES****POSTAWARD CONTRACT CLAUSES**

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE</u>
B19.02	ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DESC APR 2000)	11
C1	SPECIFICATIONS (DESC JAN 1997)	15
E12	POINT OF ACCEPTANCE (DESC MAY 1969)	15
E35.02	REQUESTS FOR WAIVERS AND DEVIATIONS (DESC JUN 1997)	15
F1.13	DETERMINATION OF QUANTITY (PC&S) (GERMANY/BENELUX) (DESC JUL 1993)	15
F1.28	DELIVERY CONDITIONS (PC&S) (GERMANY/BENELUX) (DESC JUL 1991)	16
F4	DELIVERY AND ORDERING PERIODS (DESC AUG 1976)	16
F29.01	CONTRACTOR ORDERING AGENTS (DESC FEB 1995)	16
F30.01	ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) (DESC APR 1998)	17
F30.06	ORDERING INSTRUCTIONS (GERMANY) (DESC JAN 1992)	18
G3	INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)	18
G3.01	PAYMENT DUE DATE (DESC OCT 1988)	18
G9.06	ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)	18
G9.07.100	ELECTRONIC TRANSFER OF FUNDS PAYMENTS - FOREIGN CURRENCY (DESC AUGUST 2000)	19
G9.09-1	PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)	20
G9.11	DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (MAY 1999)	21
G18	ACCOUNTING AND APPROPRIATION (DESC FEB 1968)	22
G150.06-2	SHIPMENT NUMBER TO BE IDENTIFIED ON INVOICES (PC&S) (DESC AUG 1995)	22
G150.07-2	SUBMISSION OF INVOICES FOR PAYMENT (OVERSEAS PC&S) (DESC AUG 2000)	22
II.01-7	DEFINITIONS (OVERSEAS PC&S) (DESC JAN 1996)	24
II.20-1	CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE (DESC NOV 1999)	24
II.01-2	ADMINISTRATIVE COST OF TERMINATION FOR CAUSE -- COMMERCIAL ITEMS (DESC FEB 1996)	26
I86.06	DELIVERY-ORDER LIMITATIONS (OVERSEAS PC&S) (DESC AUG 1990)	26
II79	ALLOCATION (DESC JUL 1995)	26
II86	PROTECTION OF GOVERNMENT PROPERTY AND SPILL PREVENTION (DESC MAY 1978)	27
I209.09	EXTENSION PROVISIONS (PC&S) (DESC OCT 1994)	27
II11.03	ORDERING (CONT'D) (PC&S) (BENELUX/GERMANY) (DESC MAY 1998)	28

1. Reference is made to your offer submitted on Standard Form (SF 1449) dated 25 May 2000, received by facsimile 30 May 2000 and as amended by facsimile dated 21 August 2000 and the hand delivered Amendment dated 13 June 2000. The preceding documentation is hereby incorporated by reference and made a part of the contract.

2. Clause Provisions:

B1.05 SUPPLIES TO BE FURNISHED (OVERSEAS PC&S/ALASKA) (DESC MAY 1996)

(a) The supplies to be furnished during the period specified in the REQUIREMENTS clause, the delivery points, methods of delivery, and estimated quantities are shown below. The quantities shown are best estimates of required quantities only. Unless otherwise specified, the total quantity ordered and required to be delivered may be greater than or less than such quantities. The Government agrees to order from the Contractor and the Contractor shall, if ordered, deliver during the contract period all items awarded under this contract. The prices paid shall be the unit prices specified in subsequent price change modifications issued in accordance with the ECONOMIC PRICE ADJUSTMENT clause.

(b) In an emergency, oral orders may be issued and must be confirmed in writing by an SF 1449 or DD Form 1155 within 24 hours.

(c) Offers shall not be submitted for quantities less than the estimated quantities specified below for each line item. Offers submitted for less than the estimated quantities will not be considered for award, except for items specifically designated as one or two-year requirements.

<u>ITEMS</u>	<u>SUPPLIES, DELIVERY POINTS, AND METHOD OF DELIVERY</u>	<u>ESTIMATED QUANTITY</u>
-92	GASOLINE, AUTOMOTIVE PREMIUM UNLEADED NSN: 9130-12-323-2506 GERMAN SPECIFICATION EN 228	650,000 LITERS

SPECIAL NOTES

A. DESC contact point and telephone number for emergency situations during after duty hours: COMMAND CONTROL CENTER (CCC)
TELEPHONE NUMBER (703) 767-8420

B. Delivery hours unless otherwise specified in the schedule (item narrative) are Monday-Friday from 0700-1700 hours.

C. NOTICE TO ORDERING OFFICERS: Whenever possible, orders should be consolidated to permit the contractor the opportunity to deliver quantities that are economically feasible.

D. Placing of Orders: Mapworth Transport & Trading Ltd.
Mapworth House
60, High Road
Essex IG1 1DL - UK

E. Remittance should be made to the following address: Mapworth Trransport & Trading Ltd..
Mapworth House
60, High Road
Essex IG1 1DL - UK

F. In accordance with Clause G9.09-1, MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT, the paying office listed below is applicable to this contract. The Contracting Officer will provide the electronic payment account information (contractor's account number, etc.) to the paying office.

<u>ITEM</u>	<u>PAYING OFFICE</u>
ALL DESC FUNDED	DFAS-COLUMBUS CENTER ATTN: DFAS-CO-TLSFC P.O. BOX 182317 COLUMBUS, OH 43218-6252

(DESC 52.207-9F55)

MULTIYEAR	UNIT
EST QTY LITERS	PRICE (DM)

UNITED STATES ARMY

BAUMHOLDER, H.O. SMITH. WETZEL KASERNE
GE, ARMY, IDAR-OBERSTEIN, STRASSBURG-KASERNE
DELIVERY DODAAC: W81D7F
ORDERING OFFICE: (COMM TEL) 0951-300-7879

151-92	GASOLINE, UNL PREM	200,000	.5120
	RAILCAR DELIVERY		

- (1) FOB ORIGIN (FOB), AT A CONTRACTOR FACILITY LOCATED WITHIN GERMANY
- (2) FUEL IS LOADED INTO A U.S. GOVERNMENT FURNISHED RAILCAR, WHICH WILL BE DELIVERED TO THE CONTRACTOR'S FACILITY VIA THE GERMAN DEUTSCHE BUNDESBahn (DEUTSCHE BAHN). AVERAGE DELIVERY IS 56,781 LITERS.
- (3) DESC-CENTRAL EUROPE (DESC-CE) WILL COORDINATE WITH THE DEUTSCHE BAHN MOVEMENT OF THE RAILCAR(S) TO AND FROM THE CONTRACTOR'S FACILITY. THE CONTRACTOR SHALL NOTIFY DESC-CE ONCE THE RAILCAR IS READY FOR RELEASE.
- (4) THE NAME AND LOCATION OF THE DESIGNATED FOB ORIGIN POINT IS:

MAINZ GUSTAVSBURG

- (5) THE CONTRACTOR IS REQUIRED TO COMPLETE A DD FORM 250 FOR EVERY RAILCAR DELIVERY. THE CONTRACTOR MAY ALSO BE REQUIRED TO COMPLETE DD FORM 1348-1 AND 1348-2 (TCMD-TRANSPORTATION CONTROL MOVEMENT DOCUMENT) AND AE 55-355A (FREIGHT WARRANT) PRIOR TO THE RAILCAR'S RELEASE FROM THE CONTRACTOR'S FACILITY. COPIES OF THESE FORMS WILL BE FURNISHED BY DESC-CE.
- (6) THE CONTRACTOR MUST FURNISH A MECHANICALLY PRINTED LOADING RACK METER TICKET TO THE U.S. GOVERNMENT.
- (7) RAILCARS WILL BE SEALED PRIOR TO RELEASE FROM THE CONTRACTOR'S FACILITY. UNLESS OTHERWISE NOTIFIED BY DESC, A GOVERNMENT REPRESENTATIVE MUST BE PRESENT AT THE TIME THE RAILCAR IS SEALED.
- (8) OFFERS SHALL BE EVALUATED ON PRICE AND TRANSPORTATION COSTS. TRANSPORTATION COSTS SHALL BE THE FREIGHT RATE (BASED ON WEIGHT AND DISTANCE) THE U.S. GOVERNMENT IS CHARGED BY THE DEUTSCHE BAHN TO SHIP THE GOVERNMENT'S RAILCAR TO AND FROM THE FOB ORIGIN POINT. THE WEIGHT WILL BE BASED ON THE AVERAGE DELIVERY AMOUNT OF 56,781 LITERS. THE DISTANCE SHALL BE MEASURED BETWEEN THE ACTIVITY LOCATION AND THE FOB ORIGIN POINT NOTED ABOVE.

NOTE: THIS FUEL IS CAPITALIZED.

NOTE: THIS IS DESC-FUNDED

★ ★

UNITED STATES ARMY

GE, ARMY

DELIVERY DODAAC: WK4GFH

ORDERING OFFICE: (COMM TEL): 0951-300-7879

- (1) FOB ORIGIN (FOB), AT A CONTRACTOR FACILITY LOCATED WITHIN GERMANY
- (2) FUEL IS LOADED INTO A U.S. GOVERNMENT FURNISHED RAILCAR, WHICH WILL BE DELIVERED TO THE CONTRACTOR'S FACILITY VIA THE GERMAN DEUTSCHE BUNDESBahn (DEUTSCHE BAHN). AVERAGE DELIVERY IS 56,781 LITERS.
- (3) DESC-CENTRAL EUROPE (DESC-CE) WILL COORDINATE WITH THE DEUTSCHE BAHN MOVEMENT OF THE RAILCAR(S) TO AND FROM THE CONTRACTOR'S FACILITY. THE CONTRACTOR SHALL NOTIFY DESC-CE ONCE THE RAILCAR IS READY FOR RELEASE.
- (4) THE NAME AND LOCATION OF THE DESIGNATED FOB ORIGIN POINT IS:

- (5) THE CONTRACTOR IS REQUIRED TO COMPLETE A DD FORM 250 FOR EVERY RAILCAR DELIVERY. THE CONTRACTOR MAY ALSO BE REQUIRED TO COMPLETE DD FORM 1348-1 AND 1348-2 (TCMD-TRANSPORTATION CONTROL MOVEMENT DOCUMENT) AND AE 55-355A (FREIGHT WARRANT) PRIOR TO THE RAILCAR'S RELEASE FROM THE CONTRACTOR'S FACILITY. COPIES OF THESE FORMS WILL BE FURNISHED BY DESC-CE.
- (6) THE CONTRACTOR MUST FURNISH A MECHANICALLY PRINTED LOADING RACK METER TICKET TO THE U.S. GOVERNMENT.
- (7) RAILCARS WILL BE SEALED PRIOR TO RELEASE FROM THE CONTRACTOR'S FACILITY. UNLESS OTHERWISE NOTIFIED BY DESC, A GOVERNMENT REPRESENTATIVE MUST BE PRESENT AT THE TIME THE RAILCAR IS SEALED.
- (8) OFFERS SHALL BE EVALUATED ON PRICE AND TRANSPORTATION COSTS. TRANSPORTATION COSTS SHALL BE THE FREIGHT RATE (BASED ON WEIGHT AND DISTANCE) THE U.S. GOVERNMENT IS CHARGED BY THE DEUTSCHE BAHN TO SHIP THE GOVERNMENT'S RAILCAR TO AND FROM THE FOB ORIGIN POINT. THE WEIGHT WILL BE BASED ON THE AVERAGE DELIVERY AMOUNT OF 56,781 LITERS. THE DISTANCE SHALL BE MEASURED BETWEEN THE ACTIVITY LOCATION AND THE FOB ORIGIN POINT NOTED ABOVE.

NOTE: THIS FUEL IS CAPITALIZED.

NOTE: THIS IS DESC-FUNDED

★ ★

11.03-3.100 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (PC&S) (DESC MAR 2000)**(a) INSPECTION/ACCEPTANCE.**

(1) The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (i) within a reasonable time after the defect was discovered or should have been discovered; and (ii) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(2) Also see the REQUESTS FOR WAIVERS AND DEVIATIONS clause in the Addendum.

(b) **ASSIGNMENT.** The Contractor or its assignee's right to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).

(c) **CHANGES.** Changes in the terms and conditions of this contract may be made only by written agreement of the parties, except as follows:

(1) The Government may delete a number of tanks and delivery locations from a single item that may alter the method of delivery from a combination of tank truck (TT) and tank wagon (TW) to predominantly TW deliveries. If, as a result of deletions, the primary method of delivery is changed so that increased delivery costs will be incurred, the Contracting Officer must be notified and a determination made to modify the contract. Should no increased delivery costs be incurred, the contract price will not be modified.

(2) The Government reserves the right to designate additional delivery points within the approximate same area of a specific item, provided that such additional deliveries are similar to those already under contract for the specific item. Should the Government designate additional delivery points, the Contractor shall not be liable to deliver if such deliveries would result in increased costs to the Contractor. In instances where increased costs would be incurred, the Contracting Officer must be notified and a determination made to modify the contract. Should no increase be incurred, additional delivery points shall be furnished at the contract price and without contract modification. All terms, conditions, and provisions of the contract shall apply to additional delivery points added during the term of the contract.

(d) **DISPUTES.** This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, DISPUTES, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) **DEFINITIONS.** The clause at FAR 52.202-1, DEFINITIONS, is incorporated herein by reference.

(f) **EXCUSABLE DELAYS.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) **INVOICE.** The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number, and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price, and extended price of the item delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

(h) **PATENT INDEMNITY.** The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

11.03-3.100 (CONT'D)

(i) **PAYMENT.** Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Prompt payment discount will be applied to the total amount of each invoice. If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. In the event electronic funds transfers cannot be processed, the Government retains the option to make payment under this contract by check. In connection with any discount offered for early payment, time shall be computed from the date the invoice was received. For the purposes of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the date on which an EFT was made.

(j) **RISK OF LOSS.** Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon--

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) **TAXES.** See Addendum 2.

(l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** The Government reserves the right to terminate this contract, or any part thereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms and conditions of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purposes. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) **TITLE.** Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) **WARRANTY.** The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) **LIMITATION OF LIABILITY.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) **OTHER COMPLIANCES.** The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules, and regulations applicable to its performance under this contract.

(r) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986, 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) **ORDER OF PRECEDENCE.** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services;
- (2) The Assignments; Disputes, Payments; Invoices; Other Compliances; and Compliance with Laws Unique to Government Contracts paragraphs of this clause;
- (3) The clause at 52.212-5;
- (4) Addenda to this solicitation or contract, including any license agreements for computer software;
- (5) Solicitation provisions if this is a solicitation;
- (6) Other paragraphs of this clause;
- (7) Standard Form 1449;
- (8) Other documents, exhibits, and attachments; and
- (9) The specification.

(FAR 52.212-4, **tailored**/DESC 52.212-9F50)

11.04 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS (FEB 2000)

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (1) 52.222-3, Convict Labor (E.O. 11755);
- (2) 52.225-13, Restrictions on Certain Foreign Purchases (E.O.'s 12722, 12724, 13059, and 13067; and
- (3) 52.233-3, Protest After Award (31 U.S.C. 3553).

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b), which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

[Contracting Officer shall check as appropriate.]

☒ 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

☐ 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999).

☐ 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).

☐ 52.219-5, Very Small Business Set-Aside (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994). ☐ Alt I. ☐ Alt II.

☐ 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637(d)(2) and (3)).

☐ 52.219-9, Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4)).

☐ 52.219-14, Limitations on Subcontracting (15 U.S.C. 637(a)(14)).

☐ 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer). ☐ Alt I.

☐ 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

☐ 52.219-26, Small Disadvantaged Business Participation Program - Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

☒ 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

☒ 52.222-26, Equal Opportunity (E.O. 11246).

☒ 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

☒ 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

☐ 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

☐ 52.225-1, Buy American Act - Balance of Payments Program - Supplies (41 U.S.C. 10a - 10d).

☐ 52.225-3, Buy American Act - North American Free Trade Agreement - Israeli Trade Act - Balance of Payments Program (41 U.S.C 10a - 10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note). ☐ Alt I. ☐ Alt II.

II.04 (CONT'D)

- ☒ 52.225-5, Trade Agreements (19 U.S.C 2501, et seq., 19 U.S.C. 3301 note).
- ☐ 52.225-15, Sanctioned European Union Country End Products (E.O. 12849).
- ☐ 52.225-16, Sanctioned European Union Country Services (E.O. 12849).
- ☐ 52.232-33, Payment by Electronic Funds Transfer -- Central Contractor Registration (31 U.S.C. 3332).
- ☐ 52.232-34, Payment by Electronic Funds Transfer -- Other than Central Contractor Registration (31 U.S.C. 3332).
- ☐ 52.232-36, Payment by Third Party (31 U.S.C. 3332).
- ☐ 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).
- ☐ 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor agrees to comply with FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

[Contracting Officer shall check as appropriate.]

- ☐ 52.222-41, Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).
- ☐ 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).
- ☐ 52.222-43, Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).
- ☐ 52.222-44, Fair Labor Standards Act and Service Contract Act - Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351 et seq.).
- ☐ 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351 et seq.).
- ☐ 52.222-50, Nondisplacement of Qualified Workers (E.O. 129333).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor agrees to comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS - NEGOTIATION.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by any addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components:

52.222-26, Equal Opportunity (E.O. 11246);

52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212); and

II.04 (CONT'D)

52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996). (FAR 52.212-5)

II.05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 1999)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) Clause 252.247-7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631.

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components.

- ☐ 252.205-7000 Provision of Information to Cooperative Agreement Holders, 10 U.S.C. 2416
- ☐ 252.206-7000 Domestic Source Restriction, 10 U.S.C. 2304
- ☐ 252.219-7003 Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan (DoD Contracts), 15 U.S.C. 637
- ☒ 252.225-7001 Buy American Act and Balance of Payments Program, 41 U.S.C. 10a-10-d, E.O. 10582
- ☒ 252.225-7007 Buy American Act -Trade Agreements Act - Balance of Payments Program, 41 U.S.C. 10a-10d, 19 U.S.C. 2501-2518, and 19 U.S.C. 3301 note
- ☐ 252.225-7012 Preference for Certain Domestic Commodities
- ☐ 252.225-7014 Preference for Domestic Specialty Metals. - 10 U.S.C. 2341 note
- ☐ 252.225-7015 Preference for Domestic Hand or Measuring Tools. - 10 U.S.C. 2241 note
- ☐ 252.225-7021 Trade Agreements, 19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note
- ☐ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales, 22 U.S.C. 2779
- ☐ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments, 22 U.S.C. 2755
- ☐ 252.225-7029 Preference for United States or Canadian Air Circuit Breakers, 10 U.S.C. 2534(a)93)
- ☒ 252.225-7036 Buy American Act - North American Free Trade Agreement Implementation Act - Balance of Payments Program (☐ Alt I), 41 U.S.C. 10a-10d and 19 U.S.C. 3301 note
- ☐ 252.227-7015 Technical Data Commercial Items, 10 U.S.C. 2320
- ☐ 252.227-7037 Validation of Restrictive Markings on Technical Data, 10 U.S.C. 2321
- ☒ 252.243-7002 Requests for Equitable Adjustment, 10 U.S.C. 2410
- ☐ 252.247-7024 Notification of Transportation of Supplies by Sea, 10 U.S.C. 2631

(c) In addition to the clauses listed in paragraph (b) of the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS -- COMMERCIAL ITEMS clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under the contract.

- ☐ 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note). (DFARS 252.212-7001)

B19.02 ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DESC APR 2000)**(a) WARRANTIES.** The Contractor warrants that--

(1) The unit prices set forth in the Schedule do not include allowances for any portion of the contingency covered by this clause; and

(2) The prices to be invoiced hereunder shall be computed in accordance with the provisions of this contract.

(b) DEFINITIONS. As used throughout this clause, the term--

(1) **Award price** means the unit price set forth opposite the item in the Schedule.

(2) **Reference price** means the independent index or established price set forth in this clause with which the award price is to fluctuate. The reference price should be a price for the same or similar product(s) as the item being purchased.

(3) **Independent index** means an index measuring the general rate and direction of price movements for a commodity within a market that is beyond the control of the Contractor. Examples of such indices would include a wholesale price index such as that published by the Bureau of Labor Statistics.

(4) **Established price** means one that (1) is an established catalog or market price for a commercial item as defined in FAR 2.101, Definitions.

(5) Date of delivery means--**(i) FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading;

(B) **F.O.B. DESTINATION.** The date and time vessel commences discharging;

(ii) **FOR PIPELINE DELIVERIES.** The date and time product commences to move past the specified f.o.b. point; and

(iii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received.

(c) **ADJUSTMENTS.** The prices payable under this contract shall be the award price increased or decreased by the amount, determined according to the following formula, that the reference price shall have increased or decreased, to and including the date of delivery.

(1) The amount of increase or decrease in the award price shall be--

(Buyer - check appropriate box and complete applicable blanks):

☐ The same number of cents, or fraction thereof, that the reference price increases or decreases per like unit of measure.

☐ The number of cents, or fraction thereof, determined by the ratio of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

☐ The number of cents, or fraction thereof, at the rate of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

(2) The reference price with which the award price for the listed item is to fluctuate (and which is more fully defined in the Table below) is--

☐ (i) The high price published in _____.
(name of publication)

☒ (ii) The average of the prices published in Oil Market Report - Monthly Survey (O.M.R.).
(name of publication)

☐ (iii) The established price posted by _____ and
(name of company)
published in _____.
(name of publication)

(3) **COMMERCIAL.** For price adjustments utilizing **commercial** publications such as Platt's Oilgram, etc., the reference price in effect on the date of delivery shall be that item's preselected reference price that is published as dated in the Table below. An increase or decrease in any reference price published in a trade price service or in a commercial journal shall apply only to deliveries made on or after the effective date of such trade price service or commercial journal.

(4) **NONCOMMERCIAL (NOTIFICATION).** For price adjustments utilizing a reference price indicator **other than commercial** publications such as Platt's Oilgram, the Contractor shall notify the **Contracting Officer** of any change in the reference price, in writing, within 15 calendar days from the date thereof.

(i) **INCREASES.** Any increase in unit price as a result of an increase in reference price shall apply only to deliveries made on or after the date of receipt by the Contracting Officer of written notification from the Contractor of such increase. However, the prices payable under this contract shall in no event exceed the Contractor's posted or established selling price in effect on the date of delivery for the product supplied in the form of delivery made at the point of delivery. Also, no notification incorporating an increase in a contract unit price shall be executed pursuant to this clause until the increase has been verified by the Contracting Officer.

B19.02 (CONT'D)

(ii) **DECREASES**. If the Contractor fails to notify the Contracting Officer of any decrease in the reference price within the allotted 15-day period, such decrease shall apply to all deliveries made on or after the effective date of such decrease. However, if any overpayment is made to the Contractor as a result of the Contractor's failure to give timely notice to the Contracting Officer of any decrease in the established price, the Contractor shall be charged interest on such overpayment from the date of the overpayment to the date of reimbursement by the Contractor for the overpayment in accordance with the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(5) Where the reference price is an established price (see (c)(2)(iii) above), the Contractor warrants that the product selected is one for which, except for modification required by the specifications of this contract, the Contractor has an established price. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor for his catalog, list, or schedule price. The Contractor further warrants that, as of the current date, any differences between the unit prices of the line items identified in the Schedule and the Contractor's established price for like quantities of the nearest commercial equivalents of such contract items are due to compliance with contract specifications and to compliance with any requirements that this contract may contain for preservation, packaging, and packing beyond standard commercial practice.

(d) **MODIFICATIONS**. Any resultant price changes shall be provided via notification through contract modifications and/or postings to the DESC webpage under the heading **Doing Business with DESC**

(e) **FAILURE TO DELIVER**. Notwithstanding any other provisions of this clause, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Excusable Delays and Termination for Cause paragraphs of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract, or is the result of an allocation made in accordance with the terms of the ALLOCATION clause of this contract, in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(f) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT**. The Contractor agrees that the total increase in any contract unit price pursuant to these economic price adjustment provisions shall not exceed 60 percent of the award price during the first program year or of the unit price in effect as of the start of any subsequent program year (if this is a long-term or multiyear program), except as provided hereafter:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(g) **REVISION OF REFERENCE PRICE INDICATOR**. In the event—

- (1) Any applicable reference price is discontinued or its method of derivation is altered substantially;
- (2) The reference price is an average of published or posted prices, and any one price ceases to be published or posted;
- (3) The reference price is published in a trade price service or commercial journal and such publication ceases to publish said

reference price or changes its method of quoting prices; or

(4) The Contracting Officer determines that the reference price consistently and substantially failed to reflect market conditions—the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustment hereunder. The contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(h) **CONVERSION FACTORS**. If this clause requires quantity conversion for economic price adjustment purposes, the conversion factors for applicable products, as specified in the CONVERSION FACTORS clause, apply unless otherwise specified in the Schedule.

(i) **EXAMINATION OF RECORDS**. The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause.

(j) **FINAL INVOICE**. The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this clause.

B19.02 (CONT'D)**(k) TABLE.**

I	II	III	IV	V	VI	VII
	Name of company/ publication (identify by number from (c)(2)	If company - name of product; If publication - heading under which reference price is published	Location where reference price	Method of delivery applicable to the reference	Reference price as of 1 April 2000* DM/100 liters - FO#6 IS DM/ 1000 kilograms (exclude all taxes)	Maximum price payable under this contract (includes any tax included in the award price
<u>Item No.</u>	<u>above)</u>	<u>and name of product</u>	<u>is applicable</u>	<u>price</u>	<u>all taxes)</u>	<u>price</u>

* 1. The recommended escalators for this program are the average (high) monthly postings as published in Oil Market Report under the heading "O.M.R. OIL MARKET REPORT - MONTHLY SURVEY." For all Gasoline (92) items, the recommended posting is Premium Unl; for all Diesel Fuel (02) items, the recommended posting is Diesel 0.05; for all Fuel Oil #2, the recommended posting is Gasoil and for all Fuel Oil #6 items, the recommended posting is HFO 1%.

2. The base reference prices for Solicitation SP0600-00-R-0055 are average high monthly postings for March 2000 as published in OMR 01 April 2000. Offered prices for all products should be based on the referenced OMR postings stated below:

BASE REFERENCE PRICES - AVERAGE (HIGH) MONTHLY - MARCH 2000**DM/100 LITERS**

<u>MARKET AREA</u>	<u>PREMIUM UNL</u>	<u>DIESEL 0.05</u>	<u>GASOIL</u>
WEST	160.03	117.03	52.68
RHEIN-MAIN	160.33	117.09	52.87
SOUTH-WEST	160.10	116.98	52.71
SOUTH	160.77	117.74	53.31

DM/METRIC TON (DM/TON)

<u>MARKET AREA</u>	<u>HFO 1%</u>
WEST	299.70
SOUTH-WEST	274.48
SOUTH-WEST (FOB)	274.70
SOUTH	248.52

BASE REFERENCE PRICES -Less Taxes (MARCH 2000)

Gasoline, Premium Unleaded (92)	50.31 DM/100L
Diesel Fuel (02)	43.21 DM/100L
Burner Oil #2 (46)	40.89 DM/100L
Burner Oil #6 (55)	274.35 DM/TON

B19.02 (CONT'D)

Calculations are as follows:

**FUEL OIL #2 (FO #2)
(46)****OMR REGIONS APPLICABLE:**

WEST	52.68
RHINE-MAIN	52.87
SOUTH WEST	52.71
SOUTH	53.31

SUM TOTAL:	211.57
AVG:	52.89
LESS TAXES:	40.89
OMR PRICE IN DM/L:	0.4089

**MOGAS
(92)****OMR REGIONS APPLICABLE:**

WEST	160.03
RHINE-MAIN	160.33
SOUTH WEST	160.10
SOUTH	160.77

SUM TOTAL:	641.23
AVG:	160.31
LESS TAXES:	50.31
OMR PRICE IN DM/L:	0.5031

**DIESEL FUEL
(02)****OMR REGIONS APPLICABLE:**

WEST	117.03
RHINE-MAIN	117.09
SOUTH WEST	116.98
SOUTH	117.74

SUM TOTAL:	468.84
AVG:	117.21
LESS TAXES:	43.21
OMR PRICE IN DM/L:	0.4321

**FO#6
(55)****OMR REGIONS APPLICABLE:**

WEST	299.70
SOUTH-WEST	274.48
SOUTH WEST (FOB)	274.70
SOUTH	248.52

SUM TOTAL:	1097.40
AVG:	274.35
LESS TAXES:	274.35
OMR PRICE IN DM/kg:	0.2744

3. Contract prices will be updated once a month effective "the 1st of the current month through the end of the following month" using the average (high) monthly postings as published in Oil Market Report under the heading "O.M.R. OIL MARKET REPORT - MONTHLY SURVEY."

The prices published in the O.M.R. for the month indicated in Column V above have been adjusted by deducting all included taxes. The taxes deducted are as follows:

<u>PRODUCT</u>	<u>PRODUCT CODE</u>	<u>TAXES</u>
Mogas	000-92	<u>110.00</u> (DM per 100 Liters)
Auto Diesel Fuel	000-02	<u>74.00</u> (DM per 100 Liters)
FO #2	000-46	<u>12.00</u> (DM per 100 Liters)
FO #6	000-55	<u>0.00</u> (DM per 1000 Kilograms)

These taxes will also be deducted from the prices contained in subsequent O.M.R. OIL MARKET REPORT-MONTHLY SURVEY for the applicable month. The Contractor will advise the Contracting Officer of any change in amount of taxes to be deducted. These adjusted (tax deducted) prices are shown in Column V above and constitute the reference price upon which adjustments, as specified in Part B, paragraph (b), above, will be made.

(DESC 52.216-9FAA)

C1 SPECIFICATIONS (DESC JAN 1997)

Product to be supplied shall fully meet the requirements of the applicable specification(s) as indicated in the Supply Schedule, except as modified elsewhere in this contract. Unless otherwise indicated by the Contractor, prior to award and in accordance with the EVALUATION OF OFFERS clause, the product offered will be assumed to fully meet the applicable specification(s).

(DESC 52.246-9FT5)

E12 POINT OF ACCEPTANCE (DESC MAY 1969)

On f.o.b. origin deliveries, acceptance of the supplies furnished hereunder will take place at origin, notwithstanding that inspection by the Government may take place elsewhere prior to acceptance. On f.o.b. destination deliveries, acceptance of the supplies furnished hereunder will take place at destination, notwithstanding that inspection by the Government may take place elsewhere prior to acceptance.

(DESC 52.246-9FQ1)

E35.02 REQUESTS FOR WAIVERS AND DEVIATIONS (DESC JUN 1997)

(a) The following procedures apply to requests for specification waivers.

(1) Requests for waivers and deviations shall be submitted by the Contractor to the Contracting Officer with a copy to the Quality Representative (QR). Each request shall provide the following information: Contractor name; contract number; contract line item and product, if applicable; clause number, paragraph and subparagraph, as appropriate; the nature of the request; the reason for the request; the corrective action being taken by the Contractor to correct and prevent recurrence of the condition(s) causing the nonconformance; and equitable price adjustment offered over the administrative fee. In extraordinary situations, the Contractor may initially submit the request for a deviation or waiver through the cognizant QR to the Contracting Officer or the Contracting Officer's Representative (COR) in the Bulk Fuels Business Unit, Product Technical and Standardization Division, Defense Energy Support Center (DESC). Extraordinary situation requests shall be submitted formally to the Contracting Officer prior to close of business of the next DESC normal workday. As used in this clause, the term "extraordinary situation" means the matter cannot await resolution until the DESC normal workday (0800 to 1630 hours), Monday through Friday - Federal holidays excluded. In addition, if either the Contracting Officer or the COR cannot be reached, the Duty Officer shall be contacted and provided the necessary information to forward to the proper individuals as soon as possible. The Duty Officer's telephone number is (800) 286-7633, (703) 767-8420, or (DSN) 427-8420.

(2) If the waiver is granted, the contract will be modified to provide an equitable price reduction or other adequate consideration commensurate with the waiver being granted. If the situation dictates, a waiver may be granted without prior agreement on price adjustment or other consideration subject to agreement by the Contractor, or its representative, to subsequent negotiation. Such agreement shall be documented on the receiving document or other appropriate correspondence. After negotiations, failure to agree on adequate consideration shall be a dispute concerning a question of fact within the meaning of paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS clause of this contract.

(3) If the waiver is granted and the nonconforming supplies are accepted, then in no event will consideration be less than \$250 to cover administrative costs, plus any additional cost of Government inspection or tests if reinspection or retest is necessary.

(4) If the waiver is granted modifying this contract but the supplies accepted are nevertheless determined to be in conformity with contract specifications, the Contractor shall still be obligated to pay the consideration originally agreed upon in support of the waiver. If, however, this consideration exceeds \$500, a second contract modification shall be issued reducing the Contractor's obligation to \$500 (the administrative cost of issuing the two required modifications).

(b) When notification of nonconforming supplies is received after the supplies have been accepted, and the Government determines not to exercise its right to reject or to require correction under the INSPECTION OF SUPPLIES -- FIXED-PRICE clause, then in no event will consideration be less than \$250 to cover administrative costs. This \$250 fee is in addition to--

(1) Consideration commensurate with the extent of nonconforming supplies; and

(2) Cost of Government inspection or tests if reinspection or retest is necessary.

The administrative fee will apply to each claim letter issued for off-specification product delivered to an activity.

(DESC 52.246-9FR1)

F1.13 DETERMINATION OF QUANTITY (PC&S) (GERMANY/BENELUX) (DESC JUL 1993)

The quantity of supplies furnished under this contract via transport truck, truck and trailer, and tank wagon shall be determined--

(a) **MOTOR GASOLINE DELIVERIES (F.O.B. DESTINATION).**

(1) **GERMANY.** On the basis of volume delivered, corrected to 15°C based on the calibrated meter of the delivery conveyance.

(2) **BENELUX.** On the basis of the liter without temperature correction using a calibrated meter on the delivery conveyance.

(b) **DIESEL FUEL AND NO. 2 FUEL OIL DELIVERIES (F.O.B. DESTINATION).**

(1) **GERMANY.** On the basis of volume delivered, corrected to 15°C based on the calibrated meter of the delivery conveyance.

(2) **BENELUX.** On the basis of the liter without temperature correction.

(c) **NO. 6 FUEL OIL (F.O.B. DESTINATION).** On the basis of weight using certified scales. (DESC 52.211-9FF5)

F1.28 DELIVERY CONDITIONS (PC&S) (GERMANY/BENELUX) (DESC JUL 1991)

(a) Supplies ordered hereunder shall be delivered, all transportation charges paid, to the destination specified in the Schedule by means of the transportation equipment specified in the Schedule. Delivery shall be accomplished at the Contractor's expense into Government storage or into the type of receiving equipment otherwise specified in the Schedule or in the delivery order.

(b) Unless otherwise specified in the Schedule, all deliveries shall be made upon the day specified in the order, during the normal working hours of such activity, provided the Contractor shall have received verbal notification at least five working days prior to the delivery date specified in the order. A copy of the written order should be mailed to the Contractor the same day the verbal order is placed to allow for receipt of the order by the Contractor prior to delivery.

(c) The Contractor shall provide properly maintained delivery equipment and properly trained delivery personnel to reasonably assure that delivery can be made without damage to vegetation and asphalt pavement adjacent to storage facilities being filled. The Contractor's delivery personnel who have not exercised reasonable care, and delivery equipment that is poorly maintained, may be refused entrance to the installation by the Installation Commander.

(d) WHEN THE SCHEDULE SPECIFIES --

(1) **TT/TW or TW** deliveries, the Contractor is not required to deliver volumes below the quantity specified in the Schedule as the "minimum" for each drop. The Contractor may be required to deliver by TT a quantity as low as 19,684 liters whenever the activity is restricted either by a tank capacity or by a directive from receiving a larger quantity.

(2) **MULTIPLE DROP DELIVERIES**, the Contractor may be required to deliver into more than one storage tank. Delivery equipment shall be equipped with a minimum of 30 meters of hose.

(e) Title to supplies, and risk of loss thereof, shall pass from the Contractor to the Government when the supplies pass into the receiving facilities.

(f) Heating fuel shall not be unloaded at the delivery point from commercial trucks until a designated and authorized U.S. Government representative is present to witness and verify receipt.

(DESC 52.242-9FF1)

F4 DELIVERY AND ORDERING PERIODS (DESC AUG 1976)

(a) The period of this contract during which the Ordering Officer may order and the Contractor shall deliver, if ordered, will be as follows unless the Schedule specifies otherwise:

(1) Ordering period begins: **1 October 2000** and ends: **30 September 2003**.

(2) Delivery period begins: **1 October 2000** and ends: **30 days after end of ordering period**.

(b) Notwithstanding the foregoing, deliveries prior to the delivery period, made at the option of the Contractor and pursuant to an order by the Government, shall be deemed to have been made under this contract at the applicable contract price(s).

(DESC 52.242-9F75)

F29.01 CONTRACTOR ORDERING AGENTS (DESC FEB 1995)

Orders placed hereunder shall be directed to the prime Contractor at the address indicated on the cover page unless another address is indicated below.

(NOTE: Offeror to complete when submitting proposal.)

(DESC 52.216-9F85)

F30.01 ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) (DESC APR 1998)

(a) Ordering and Paying Officers under the contract are as indicated below:

<u>ITEM#</u>	<u>ORDERING OFFICER</u>			<u>PAYING OFFICER</u>
ARMY				
7	159	319	200TH MMC(PROV)	DFAS - COLUMBUS CENTER ATTN: DFAS-CO-TLSFC PO BOX 182317 COLUMBUS OH 43218-6252
11	166	356	PETROLEUM MGMT DIVISION	
17	173	406	UNIT 27535	
			APO AE 09139	
29	172	475		FACSIMILE NUMBER: 614-693-0671
41	179	480		
42	180	495	POC: SAMUEL J. MEEK	
73	185	505	EMAIL: MEEKS@CMTYMAIL.98ASG.ARMY.MIL	
43	189	510		
44	201	511		
76	209	512		
95	211	513		
96	218	470		
116	294			
117	314			
145	316			
151	317			
155	318			

(b) The Commanding Officer or his designated representative of the cognizant requiring activity is authorized to make any necessary changes to this listing, or make additional assignments for requirements not covered by the foregoing. Such changes or assignments shall be made by written notification to the Contractor, with a copy to the Contracting Officer.

(c) If Ordering and Paying Officers cannot be ascertained under (a) or (b) above, the following activities, as applicable, should be contacted:

**COMMANDER
US ARMY PETROLEUM CENTER
ATTN: SATPC-L
NEW CUMBERLAND ARMY DEPOT
NEW CUMBERLAND, PA 17070-5008**

**HQ USAFE/LGST
UNIT 3050, BOX 105
RAMSTEIN AB GE
APO AE 09094-0105**

**ATTN: DESC-PEC
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J. KINGMAN ROAD, SUITE 4950
FORT BELVOIR, VA 22060-6222**

**DEFENSE ENERGY SUPPORT CENTER EUROPE
ATTN: SAM BEKELE
AMERICAN ARMS OFFICE TOWERS
AUGUSTA STRASSE 6
65189 WEISBADEN
GERMANY**

**HQ SAN ANTINO ALC/SFRF
1014 BILLY MITCHELL BLVD
SUITE 1, BLDG 1621
ATTN: SAM VALDEZ
KELLY AFB, TX 78241-5603**

(DESC 52.216-9FB1)

F30.06 ORDERING INSTRUCTIONS (GERMANY) (DESC JAN 1992)

Delivery orders issued against awards made under this tender will state quantities in liters for all products except FO6. Delivery orders for FO6 will state quantities in kilograms. For computation purposes only, when placing delivery orders for FO6, the following measurements will be used:

- (a) One U.S. Gallon equals 3.55 KG or 3.78533 liters.
- (b) One liter equals .938 kilograms.

(DESC 52.216-9FE1)

G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

(DESC 52.211-9FH5)

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.

(DESC 52.232-9F45)

G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)

Remittances shall be mailed only at the Government's option or where an exception to payment by Electronic Funds Transfer (EFT) applies. (See the PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION or the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause.)

Offeror shall indicate below the complete mailing address (including the nine-digit zip code) to which remittances should be mailed if such address is other than that shown in Block 15a (Standard Form (SF) 33) for noncommercial items or Block 17a (SF 1449) for commercial items. In addition, if offeror did not incorporate its nine-digit zip code in the address shown in Block 15a of the SF 33 or in Block 17a of the SF 1449, the offeror shall enter it below:

(a) Payee Name (Contractor): _____
(DO NOT EXCEED 25 CHARACTERS)

(b) Check Remittance Address:

(DO NOT EXCEED 30 CHARACTERS PER LINE)

(c) Narrative Information (special instructions).

(DO NOT EXCEED 153 CHARACTERS)

(DESC 52.232-9F55)

G9.07.100 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - FOREIGN CURRENCY (DESC AUGUST 2000)

(a) The Contractor shall supply the following information to the Contracting Officer no later than 5 days after contract award and before submission of the first request for payment.

NAME OF RECEIVING BANK: _____
(DO NOT EXCEED 29 CHARACTERS)

CITY AND STATE OF RECEIVING BANK: _____
(DO NOT EXCEED 20 CHARACTERS)

SWIFT CODE: _____

BANK TRANSIT CODE (If available): _____

ACCOUNT TYPE CODE: (Contractor to designate one)

☐ CHECKING TYPE 22

☐ SAVINGS TYPE 32

RECIPIENT'S ACCOUNT NUMBER ENCLOSED IN PARENTHESES: _____
(DO NOT EXCEED 15 CHARACTERS)

RECIPIENT'S NAME/TITLE ON ACCOUNT: _____

RECIPIENT'S NAME: _____
(DO NOT EXCEED 25 CHARACTERS)

STREET ADDRESS: _____
(DO NOT EXCEED 25 CHARACTERS)

CITY AND STATE: _____
(DO NOT EXCEED 25 CHARACTERS)

(b) CONTRACTOR'S DESIGNATED OFFICIAL SUBMITTING ELECTRONIC FUNDS TRANSFER INFORMATION.

NAME: _____
(DO NOT EXCEED 25 CHARACTERS)

TITLE: _____
(DO NOT EXCEED 25 CHARACTERS)

TELEPHONE NUMBER: _____
(DO NOT EXCEED 25 CHARACTERS)

SIGNATURE: _____

(c) Any change by the Contractor in designation of the bank account to receive electronic transfer of funds in accordance with this clause must be received by the Contracting Officer no later than 30 days prior to the date the change is to become effective.

(d) The electronic transfer of funds does not constitute an assignment of such funds in any form or fashion.

(e) In the event electronic transfer of funds payments cannot be processed, the Government retains the option to make payments under this contract by check.

(f) Notwithstanding any other provision of the contract, the requirements of this clause shall control.

(DESC 52.232-9FJ1)

**G9.09-1 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR
REGISTRATION (MAY 1999)**

(a) METHOD OF PAYMENT.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either-

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) MANDATORY SUBMISSION OF CONTRACTOR'S EFT INFORMATION.

(1) The Contractor is required to provide the Government with the information required to make contract payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information no later than 3 days after award. If not otherwise designated in the contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated payment office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) MECHANISMS FOR EFT PAYMENT. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal Payments through the ACH are contained in 31 CFR Part 210.

(d) SUSPENSION OF PAYMENT.

(1) The Government is not required to make any payment until after receipt, by the designated office, of the correct EFT information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of any delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than the 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the changed EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provision of paragraph (d) shall apply.

(f) EFT AND PROMPT PAYMENT. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT AND ASSIGNMENT OF CLAIMS. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

G9.09-1 (CONT'D)

(h) **LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) **PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) **EFT INFORMATION.** The Contractor shall provide the following information to the designated office. The Contractor may supply this data for multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).
- (3) The signature (manual or electric, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System and, therefore, not the receiver of the wire transfer payment.

(FAR 52.232-34)

G9.11 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (MAY 1999)

(a) As provided in paragraph (b) of the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) DESIGNATED OFFICE.

Name: SHARON DAVIS/TYLER PARKER

Mailing Address: DEFENSE ENERGY SUPPORT CENTER

ATTN: DESC-PEC

8725 JOHN J. KINGMAN ROAD, SUITE 4950

FORT BELVOIR, VIRGINIA 22060-6222

Telephone Number(s): 703-767-9512/703-767-9514

Person(s) to Contact: SHARON DAVIS/TYLER PARKER

Electronic Address: sdavis@desc.dla.mil/tparker@desc.dla.mil

(FAR 52.232-35)

G18 ACCOUNTING AND APPROPRIATION (DESC FEB 1968)

The account for which material is ordered will determine the appropriation or fund to be charged with the cost of the material in each case. The appropriation or fund as applicable in each case will be conspicuously shown on each order issued hereunder.

(DESC 52.232-9F50)

This clause only applies to Army and Capitalized Air Force Items**G150.06-2 SHIPMENT NUMBER TO BE IDENTIFIED ON INVOICES (PC&S) (DESC AUG 1995)**

(a) For purposes of this clause and the contract, "shipment number" for PC&S deliveries is defined as a seven position alpha-numeric number. The first three positions shall always consist of the alpha characters "PCS". The remaining four positions shall contain numeric digits beginning with "0001".

(b) The Contractor must identify the shipment number on each invoice submitted for payment. For each delivery order issued, the first shipment number shall be "PCS0001". The **SAME** shipment number shall be used for multiple deliveries under the same contract line item made on the same calendar day. Shipment numbers shall be consecutively numbered (i.e., 0002, 0003, etc.) for each subsequent day until the delivery order has been completed. The Contractor shall convey the appropriate shipment number to the receiving activity.

(DESC 52.232-9F85)

The following clause applies only to DESC-funded items:**G150.07-2 SUBMISSION OF INVOICES FOR PAYMENT (OVERSEAS PC&S) (DESC AUG 2000)****NOTE: INVOICES WILL REFLECT QUANTITIES IN WHOLE NUMBERS AND SHALL BE ROUNDED**

AS APPLICABLE. Example: 7,529.4 = 7,529 or 7,529.5 = 7,530.

(a) **GENERAL.** This contract is for overseas fuel deliveries for posts, camps, and stations. Invoices will be paid on the basis of the Contractor's delivery to the point of first receipt by the Government.

(b) **RESPONSIBILITY FOR SUPPLIES.** Title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government. Notwithstanding any other provision of the contract, the Contractor shall assume all responsibility and risk of loss for supplies (1) not received at destination, (2) damaged in transit, or (3) not conforming to purchase requirements. The Contractor shall either replace, or correct, such supplies promptly at its expense, provided instructions to do so are furnished by the Contracting Officer within 90 days from the date title to the supplies vests in the Government.

(c) **PAYING OFFICE.** Invoices for product paid with Defense Logistics Agency/Defense Energy Support Center (DESC) funds, as cited on the order, will be paid by DESC and should be mailed to--

DEFENSE FINANCE AND ACCOUNTING SERVICE - COLUMBUS CENTER
ATTN: DFAS-CO-TLSFC
PO BOX 182317
COLUMBUS OH 43218-6252

(d) CERTIFICATION OF RECEIPT.

(1) Receiving activity personnel will certify the receipt of fuel by preparing and signing one of the following documents:

- (i) Standard Form 1449, Solicitation/Contract/Order for Commercial Items; or
- (ii) DD Form 1155, Order for Supplies or Services; or
- (iii) DD Form 250, Material Inspection and Receiving Report.

(2) Receiving activities shall input receipt information into the Defense Fuel Automated Management System (DFAMS) via Fuels Control Center or other electronic systems installed at their activity. A copy of the receipt document shall be submitted to the Contractor. Copies of receipt documents shall be submitted to DESC-FII upon request.

(3) Payments to the Contractor will be based on the quantities specified on the receiving report and payments will be made in accordance with the terms of the contract.

G150.07-2 (CONT'D)**(e) SUBMISSION OF INVOICES.**

(1) Upon delivery of supplies to the point of first receipt by the Government, the Contractor shall prepare an invoice in accordance with the terms of this contract. (For Germany only, the Contractor shall invoice all products using liters, except for FO6, which will be invoiced in kilograms). The Government prefers that the Contractor submit an invoice for each item for no more or less than the total daily delivered quantity at a particular activity. However, invoices may be submitted on a daily, weekly, bimonthly, or monthly basis. Weekly, bimonthly, and monthly invoices must contain only one item number and only one corresponding delivery order number, and must specify the total quantity delivered for each specific delivery date.

(2) Invoices submitted for payment shall be submitted in duplicate. The submission shall include an original invoice clearly marked **ORIGINAL** and one copy clearly marked **INVOICE COPY**. A carbon copy may be submitted as an original provided it is clearly marked **ORIGINAL** as stated above.

(3) **FOR GERMANY ONLY:** The original tax exemption documentation (Abwicklungsschein) must accompany the invoice unless the invoice is submitted via facsimile. Submission of the Abwicklungsschein for invoices submitted via facsimile shall follow the instructions contained in (5) below.

(4) COURIER DELIVERY OF INVOICES.

(i) Couriers, acting on behalf of Contractors, must deliver Contractor invoices being submitted for payment to the following mailroom street address:

DEFENSE FINANCE AND ACCOUNTING SERVICE - COLUMBUS CENTER
ATTN: DFAS-CO-TLSFC
3990 EAST BROAD STREET BLDG 21
COLUMBUS OH 43213-1152

(ii) Invoices submitted by courier to the above address will be handled in a timely manner.

(5) **FACSIMILE INVOICES.** Facsimile (fax) invoices are authorized only where the fax number is noted for the paying office stated in the ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) clause of this contract. The following provisions apply if the paying office can accept fax invoices.

(i) Contractors who select the fax method of invoicing prior to award in accordance with the FACSIMILE INVOICING provision must do so for all invoices. Failure to comply with these requirements will result in revocation of the Contractor's right to submit invoices by the fax method.

(ii) If the fax is received before 5 p.m., Eastern Standard Time, the receipt date of record is the date the item was received. If the fax is received after 5 p.m., Eastern Standard Time (EST) or Eastern Daylight Time (EDT), the receipt date is the next business day.

(iii) The DFAS-CO-TLS fax number is **(614) 693-0671**.

(iv) The Contractor shall include its fax number on each document transmitted.

(v) After transmitting the original invoice, the Contractor shall mark that invoice "**ORIGINAL INVOICE - FAXED**" and retain it. The hard copy is **not** required for payment and shall **not** be mailed to the payment office unless DFAS-CO-TLS specifically requests it.

(vi) **FOR GERMANY ONLY:** The Contractor must mail the original tax exemption documentation (Abwicklungsschein) immediately after submission of the faxed invoice. A copy of the faxed invoice must accompany the Abwicklungsschein.

(f) **INVOICING DETENTION COSTS.** Unless otherwise specified in the contract, detention costs, allowable only on tank truck deliveries (not applicable to multiple drop tank truck or any tank wagon deliveries), will be the sole responsibility of the activity incurring them. Invoices for detention costs will be submitted by the Contractor directly to the activity receiving the product. If the receiving activity is an Army activity, a copy of the detention cost invoice must also be furnished to the following address:

COMMANDER US ARMY PETROLEUM CENTER
ATTN: SATPC-L
NEW CUMBERLAND PA 17070-5008

II.01-7 DEFINITIONS (OVERSEAS PC&S) (DESC JAN 1996)

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) **Quality Representative (QR)** includes the terms Quality Assurance Representative (QAR) and Quality Surveillance Representative (QSR).

(1) The QAR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing petroleum products and services.

(2) The QSR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing services.

(b) **RP** = Number of Receiving Points.

(c) **MIN DEL** = Minimum Delivery at each receiving point, in **Liters** except Fuel Oil No. 6 which is in kilograms.

(d) **TANK CAP. GAL.** = Indicates the capacity of each tank at receiving point.

For example:

(1) If 1 receiving point and a 500 **Liter** tank capacity are indicated, this denotes one 500 **Liter** tank at the receiving point.

(2) If 2 receiving points and 500 EA tank capacity are indicated, this denotes two 500 **Liter** tanks at the receiving point.

(3) 2/500 indicates 2 tanks, 500 **Liters** capacity each tank.

(e) **-1-** = Indicates receiving tank located above ground.

(f) **-2-** = Indicates receiving tank located under ground.

(g) **-3-** = Indicates receiving tank located in basement or inside building.

(h) **TW** = Tank Wagon. Delivery capacity less than 5,200 gallons/19,682 liters.

(1) **ITALY.** 100 feet of hose required unless otherwise specified in the Schedule.

(2) **GERMANY.** 30 meters of hose required unless otherwise specified in the Schedule.

(i) **TT** = Tank Truck. Minimum delivery capacity of 5,200 gallons/19,682 liters.

(1) **ITALY.** 15 feet of hose required unless otherwise specified in the Schedule.

(2) **GERMANY.** 30 meters of hose required unless otherwise specified in the Schedule.

(j) **U.S. Gal.** = United States liquid gallon or 3.785 liters.

(DESC 52.202-9F20)

II.20-1 CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE (DESC NOV 1999)

(a) This clause incorporates contract clauses and solicitation provisions by reference with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(b) The full text of any FAR, DFARS, or DLAD solicitation clause or provision may be accessed electronically at these addresses:

FAR/DFARS: <http://farsite.hill.af.mil>

FAR/DFARS: <http://www-far.npr.gov>

DLAD: <http://www.procregs.hq.dla.mil/icps.htm>

(c) **All DESC clauses and provisions are contained in full text in this document.**

(d) **Solicitation Provisions Only.** The offeror is cautioned that the solicitation provisions listed in (e)(1) below may include blocks that must be completed by the offeror and submitted with its quotation or offer. As long as the offeror identifies the solicitation provision by number, the offeror may simply complete those paragraphs requiring fill-in information to submit with its quotation or offer. In addition to the solicitation provisions listed in (e)(1) below, the contract clauses listed in (e)(2) below shall apply to any resultant contract but do not require the submission of additional offer information.

(e) The following FAR/DFARS/DLAD contract clauses and solicitation provisions are hereby incorporated by reference in addition to those listed in the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS and the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS clauses:

I1.20-1 (CONT'D)

(1)

<u>SOLICITATION PROVISION NUMBER</u>	<u>REGULATORY NUMBER</u>	<u>PROVISION TITLE</u>
--	------------------------------	------------------------

NOT APPLICABLE

(2)

<u>CONTRACT CLAUSE NUMBER</u>	<u>REGULATORY NUMBER</u>	<u>CLAUSE TITLE</u>
E5	FAR 52.246-2	INSPECTION OF SUPPLIES-FIXED-PRICE
F105	FAR 52.211-16	VARIATION IN QUANTITY

Under paragraph (b) "The permissible variation shall be limited to 10% increase/decrease. This increase or decrease shall apply to each delivery order."

I11.04	FAR 52.243-13	BANKRUPTCY
I12.02	DFARS 252.204-7004	CHOICE OF LAW
I27	FAR 52.203-3	GRATUITIES
I28.21	FAR 52.229-6	TAXES-FOREIGN FIXED-PRICE CONTRACTS
I33	FAR 52.232-17	INTEREST
I84	FAR 52.216-21	REQUIREMENTS

Under paragraph (f) "**30 days after the expiration of the ordering period.**"

I211	FAR 52.216-18	ORDERING
------	---------------	----------

Under paragraph (a) "Such orders may be issued from **1 October 2000** through **30 September 2003.**"

(DESC 52.252-9F08)

I11.01-2 ADMINISTRATIVE COST OF TERMINATION FOR CAUSE -- COMMERCIAL ITEMS (DESC FEB 1996)

- (a) In the event this contract is terminated for cause, in whole or in part, the Government will incur administrative costs.
- (b) The Contractor agrees to pay all administrative costs associated with a contract termination action. The minimum amount the Contractor shall pay for each termination action is \$500. This payment for administrative costs is in addition to any excess procurement costs and any other remedies or damages resulting from the termination.
- (c) The term **termination action**, as used herein, means the termination for cause, including any associated procurement effort, involving--
 - (1) Any single order or any group of orders terminated together;
 - (2) Any item or group of items terminated together; or
 - (3) The entire contract.

(DESC 52.249-9F20)

I86.06 DELIVERY-ORDER LIMITATIONS (OVERSEAS PC&S) (DESC AUG 1990)

- (a) **MINIMUM ORDER.** The Contractor shall not be obligated to furnish supplies and/or services under this contract in an amount less than the minimum established in the Schedule of a single item for delivery to a single delivery point. In the event the prices established under this contract vary based upon the liter quantity of an individual delivery, the Government reserves the right to withhold ordering, without prejudice, until the individual delivery quantity required reaches a level, as determined by the Ordering Officer, that minimizes the per liter cost to the Government.
- (b) **MAXIMUM ORDER.** Unless otherwise stated in the Schedule, the Contractor shall not be obligated to honor--
 - (1) Any order for a single item for a single delivery point in excess of **15% of the total estimated requirement**;
 - (2) Any order for a combination of items for a single delivery point in excess of **15% of the total estimated requirement of all**

the items; or

- (3) A series of orders from the same ordering office in the course of seven days that together call for quantities of items that total in excess of the limitation provided in (1) or (2) above.
- (c) The Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum order limitations in (b) above.
- (d) Notwithstanding the foregoing, the Contractor shall honor any order exceeding the maximum order limitations set forth above unless the Contractor verbally notifies the Ordering Officer within two workdays after verbal notification of an order or two workdays after receipt of a written order, followed by the return of the written orders to the ordering office, that he does not intend to make shipment of the items called for and the reasons therefor. When the Government has received this verbal notice, the Government may acquire the supplies from another source.

(DESC 52.216-9FK5)

I179 ALLOCATION (DESC JUL 1995)

- (a) **REDUCED SUPPLIES.** If, for any cause beyond the control and without the fault or negligence of the Contractor, the total supply of crude oil and/or refined petroleum product is reduced below the level that would have otherwise been available to the Contractor, the Contractor allocates to its regular customers its remaining available supplies of crude oil or product, then the Contractor may also allocate to the U.S. Government supplies to be delivered under this contract, PROVIDED--
 - (1) Prompt notice of and evidence substantiating the necessity to allocate and describing the allocation rate for all the Contractor's customers are submitted to the Contracting Officer;
 - (2) Allocation among the Contractor's regular customers is made on a fair and reasonable basis (except where allocation on a different basis is required by a governmental authority, agency, or instrumentality); and
 - (3) Reduction of the quantity of product due the Government under this contract shall not exceed the pro rata amount by which the Contractor reduces delivery to its other customers similarly situated.
- (b) **ADDITIONAL SUPPLIES.** If, after the event causing the shortage of crude oil and/or refined petroleum product as described in (a) above, additional supply becomes available to the Contractor, the Contracting Officer may choose any one of the following three possible courses of action:
 - (1) Accept an updated pro rata reduction as outlined in (a) above;
 - (2) Determine that continuance of the contract with the quantities as originally stated in the Schedule is in the best interests of the Government; or
 - (3) Terminate the contract as permitted in (d) below.

I179 (CONT'D)

(c) **REDUCED DELIVERIES.** If the Contractor believes that a law, regulation, or order of a foreign government requires the Contractor to deliver less than the quantity set forth in the Schedule for any location within that country, the Contractor may request allocation in accordance with (a) above. In addition to the criteria in (a) above, the Contractor's request shall cite--

- (1) The law, regulation, or order, furnishing copies of the same;
- (2) The authority under which it is imposed; and
- (3) The nature of the Government's waiver, exception, and enforcement procedure.--

The Contracting Officer will promptly review the matter and advise the Contractor whether or not the need to allocate has been substantiated. If the law, regulation, or order requiring the Contractor to reduce deliveries ceases to be effective, the Contractor shall resume deliveries in accordance with the original Schedule.

(d) If, as a result of reduced deliveries permitted by (a), (b), or (c) above, the Contracting Officer decides that continuation of this contract is no longer in the best interests of the Government, the Government may terminate this contract or any quantity thereunder, by written notice, at no cost to the Government. However, the Government shall not be relieved of its obligation to pay for supplies actually delivered to and accepted by it.

(e) Except as otherwise stated in (b) above, any volumes omitted pursuant to (a) or (b) above shall be deleted from this contract, and the Contractor shall have no continuing obligation, so far as this contract is concerned, to make up such omitted supplies.

(f) For Posts, Camps, and Stations contracts, Department of Energy priority orders and allocation regulations will take precedence over any conflicting provisions of this clause.

(g) For Bulk Fuels contracts, the provisions contained in (a) above shall be inoperative when the Secretary of Defense makes a written determination that it is essential to the National Defense that the Defense Energy Support Center be provided contract volumes exceeding the amount of product to which it would otherwise be entitled. (DESC 52.249-9F05)

I186 PROTECTION OF GOVERNMENT PROPERTY AND SPILL PREVENTION (DESC MAY 1978)

(a) The Contractor shall use reasonable care to avoid damaging or contaminating existing buildings, equipment, asphalt pavement, soil, or vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to use reasonable care and damages or contaminates any such buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities, he shall replace the damaged items or repair the damage at no expense to the Government and to the satisfaction of the Government. Further, if, as a result of the failure of the Contractor to comply with the requirements of this contract, Government buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities become damaged or destroyed, the Contractor shall replace or repair the damage at no expense to the Government, and to the satisfaction of the Government. Should the Contractor fail or refuse to make such repairs or replacements, the Government may have the said repairs or replacement accomplished, and the Contractor shall be liable for the cost thereof which may be deducted from the amounts which become due under this contract. Informal agreement with the Contractor upon replacement, repairs, or costs to be deducted shall first be attempted by the Installation Commander or Ordering Officer. If disagreement persists, the matter shall be referred to the Contracting Officer. Unless approved by the Contracting Officer, no costs shall be deducted from amounts due or owing without the Contractor's consent.

(b) The Contractor shall take all measures as required by law to prevent oil spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping into or onto any land or water). In the event the Contractor spills any oil (including, but not limited to, gasoline, diesel fuel, fuel oil, or jet fuel), the Contractor shall be responsible for the containment, cleanup, and disposal of the oil spilled. Should the Contractor fail or refuse to take the appropriate containment, cleanup, and disposal actions, the Government may do so itself. The Contractor shall reimburse the Government for all expenses incurred including fines levied by Federal, State, or local Governments.

(DESC 52.223-9F10)

I209.09 EXTENSION PROVISIONS (PC&S) (DESC OCT 1994)

(a) The DESC Contracting Officer reserves the right to unilaterally extend this contract on the same terms and conditions one or more times for a total of no more than six months. Notice of contract extension will be furnished to the Contractor 30 days prior to expiration of this contract or any extension thereof. However, nothing in this clause precludes the Contractor from agreeing to an extension of the contract if the DESC Contracting Officer fails to issue the notice within the 30 day time frame.

(b) The foregoing extension may be exercised by the DESC Contracting Officer where continued performance is required until a follow-on contract is awarded or, in the event a follow-on contract has been awarded, until a succeeding Contractor is positioned to commence performance.

(c) Extension of this contract shall be considered to have been accomplished at the time the DESC Contracting Officer provides written notification to the Contractor by facsimile or by mail.

(DESC 52.217-9F20)

I211.03 ORDERING (CONT'D) (PC&S) (BENELUX/GERMANY) (DESC MAY 1998)

Blanket orders for large quantities are not recommended but may be issued provided that—

- (a) They cover less than three months, or, for DESC-funded items, they cover no more than one calendar month;
- (b) They specifically state actual amounts needed and specific delivery times during the contract delivery period; and
- (c) The quantity listed on the order does not exceed the maximum order limitations stated in the DELIVERY-ORDER

LIMITATIONS clause.

(DESC 52.216-9FC8)